

ESTTA Tracking number: **ESTTA334219**

Filing date: **02/25/2010**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Miguel Torres, S.A.
Granted to Date of previous extension	02/27/2010
Address	Miguel Torres I Carbo 6- 8720 Vilafranca Del Penedes Barcelona, SPAIN

Attorney information	J. Scott Gerien Dickenson, Peatman & Fogarty 809 Coombs Street Napa, CA 94559 UNITED STATES tmdept@dpf-law.com Phone:707-252-7122
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Applicant Information

Application No	79069543	Publication date	12/29/2009
Opposition Filing Date	02/25/2010	Opposition Period Ends	02/27/2010
International Registration No.	1004342	International Registration Date	05/05/2009
Applicant	Torrevento s.r.l. Strada Provinciale 234, km. 10,600 (ex S.S. 170 km. 28); I-70033 Corato (BA) ITALY		

Goods/Services Affected by Opposition

Class 033. All goods and services in the class are opposed, namely: Alcoholic beverages, namely, wines and sparkling wines

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2267400	Application Date	09/11/1998
Registration Date	08/03/1999	Foreign Priority Date	NONE
Word Mark	TORRES 20		

Design Mark	TORRES 20		
Description of Mark	NONE		
Goods/Services	Class 033. First use: First Use: 1996/00/00 First Use In Commerce: 1998/03/00 BRANDY		

U.S. Registration No.	2859655	Application Date	05/14/2003
Registration Date	07/06/2004	Foreign Priority Date	NONE
Word Mark	TORRES 5		
Design Mark	TORRES 5		
Description of Mark	NONE		
Goods/Services	Class 033. First use: First Use: 2000/05/29 First Use In Commerce: 2000/05/29 BRANDY		

U.S. Registration No.	2267401	Application Date	09/11/1998
Registration Date	08/03/1999	Foreign Priority Date	NONE
Word Mark	TORRES 10		
Design Mark	TORRES 10		
Description of Mark	NONE		
Goods/Services	Class 033. First use: First Use: 1993/00/00 First Use In Commerce: 1997/12/31 BRANDY		

U.S. Registration No.	1358370	Application Date	07/18/1984
Registration Date	09/03/1985	Foreign Priority	NONE

		Date	
Word Mark	MIGUEL TORRES		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 033. First use: First Use: 1980/01/00 First Use In Commerce: 1980/01/00 BRANDY		

U.S. Registration No.	897048	Application Date	02/07/1969
Registration Date	08/18/1970	Foreign Priority Date	NONE
Word Mark	TORRES		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U047 (International Class 033). First use: First Use: 1962/02/00 First Use In Commerce: 1964/04/10 WINES Class U049 (International Class 033). First use: First Use: 1953/00/00 First Use In Commerce: 1953/00/00 BRANDY		

Attachments	75551944#TMSN.gif (1 page)(bytes) 76514638#TMSN.gif (1 page)(bytes) 75551946#TMSN.gif (1 page)(bytes) Notice of Opposition - TORREVENTO 2-25-10.pdf (5 pages)(280483 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/J. Scott Gerien/
Name	J. Scott Gerien
Date	02/25/2010

Certificate of Electronic Filing

I hereby certify that this correspondence is being electronically filed with the Trademark Trial and Appeal Board through the ESTTA system located at <<http://estta.uspto.gov>>.

Dated: 2/25/10

By 
Jaymie Kilgore

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
TRADEMARK TRIAL AND APPEAL BOARD

Miguel Torres, S.A.,

Opposer,

vs.

Torrevento S.R.L.

Applicant.

OPPOSITION NO.

NOTICE OF OPPOSITION

TO THE COMMISSIONER OF TRADEMARKS:

Miguel Torres, S.A., a corporation organized under the laws of Spain and located at Miguel Torres I Carbó 6, 8720-Vilafranca Del Penedès, Barcelona, Spain ("Opposer"), believes it will be damaged by registration of the mark TORREVENTO and design for alcoholic beverages, namely, wines and sparkling wines, shown in Application Serial No. 79/069543, filed on May 5, 2009, by Torrevento S.R.L. an Italy limited liability company ("Applicant") and hereby opposes same.

Solely for the purpose of this proceeding, Opposer alleges the following as grounds for opposition:

1. Applicant seeks to register TORREVENTO and design as a trademark for alcoholic beverages, namely, wines and sparkling wines in International Class 33, Application Serial No. 79/069543, based on an International Registration for such mark, as evidenced by the publication of such mark in the Official Gazette on December 29, 2009. The application for TORREVENTO and design was filed with the USPTO on May 5, 2009.
2. Opposer has been using a family of "TORRES" trademarks on wine and other alcoholic beverages for over forty (40) years, including TORRES, MIGUEL TORRES, TORRES 5, TORRES 10, and TORRES 20 (collectively, the "TORRES Marks"), all of which have been in use long prior to any known date of first use or constructive filing date for Applicant's TORREVENTO and design mark for alcoholic beverages, namely, wines and sparkling wines.
3. Opposer is the owner of incontestable U.S. Trademark Registration No. 897,048 issued on August 18, 1970, for the mark TORRES for wines and brandy in International Class 33, with first use dates of April 10, 1964 for wine and 1953 for brandy, both of which precede any known date of first use or constructive filing date for Applicant's TORREVENTO and design mark for alcoholic beverages, namely, wines and sparkling wines.
4. Opposer is the owner of incontestable U.S. Trademark Registration No. 1,358,370 issued on September 3, 1985, for the mark MIGUEL TORRES for brandy in International Class 33, with a first use date of January 1980, which precedes any known date of first use or constructive filing date for Applicant's TORREVENTO and design mark for alcoholic beverages, namely wines and sparkling wines.
5. Opposer is the owner of incontestable U.S. Trademark Registration No. 2,267,401 issued on August 3, 1999, for the mark TORRES 10 for brandy in International Class 33, with a first use date of December 31, 1997, which precedes any known date of first use or constructive filing date for Applicant's TORREVENTO and design mark for alcoholic beverages, namely wines and sparkling wines.

- 1 6. Opposer is the owner of incontestable U.S. Trademark Registration No. 2,267,400
2 issued on August 3, 1999, for the mark TORRES 20 for brandy in International
3 Class 33, with a first use date of March 1998, which precedes any known date of
4 first use or constructive filing date for Applicant's TORREVENTO and design
5 mark for alcoholic beverages, namely wines and sparkling wines.
- 6 7. Opposer is the owner of U.S. Trademark Registration No. 2,859,655 issued on
7 July 6, 2004, for the mark TORRES 5 for brandy in International Class 33, with a
8 first use date of May 29, 2000, which precedes any known date of first use or
9 constructive filing date for Applicant's TORREVENTO and design mark for
10 alcoholic beverages, namely, wines and sparkling wines.
- 11 8. Opposer alleges that Applicant's applied-for mark is likely to cause confusion,
12 mistake or to deceive the public. Applicant's TORREVENTO and design mark
13 for alcoholic beverages, namely, wines and sparkling wines is similar to each of
14 Opposer's TORRES Marks and the respective goods on which the marks are used
15 are virtually identical, substantially similar, or related and said products are
16 purchased by the same group of consumers. Opposer's TORREVENTO and
17 design mark is also likely to be perceived by consumers as part of the Torres
18 family of "TORRES" marks. Accordingly, Applicant's mark is confusingly
19 similar to Opposer's various individual TORRES Marks and its family of
20 "TORRES" marks such that Applicant is not entitled to register its mark and
21 Applicant's application should be denied in accordance with Section 2(d) of the
22 Trademark Act of 1946, 15 U.S.C. §1052(d).
- 23 9. Opposer avers that if Applicant is granted the registration herein opposed, it
24 would interfere with Opposer's exclusive right to use its TORRES Marks herein
25 relied upon, all to the detriment and damage of Opposer. Accordingly, Opposer
26 avers that for the reasons aforesaid, it will be damaged by a grant of registration to
27 Applicant of its trademark which is the subject of Serial No. 79/069543.

1 WHEREFORE, Opposer prays as follows:

- 2 1. That this Opposition be sustained;
- 3 2. That Application Serial No. 79/069543 be rejected; and
- 4 3. That registration of the trademark TORREVENTO and design shown and
- 5 specified in Application Serial No. 79/069543 be refused and denied.
- 6

7 Please charge Opposer's counsel's Deposit Account #503564 the \$300 filing fee for the

8 Opposition, and any other fees which may be necessary to effect the filing of this opposition.

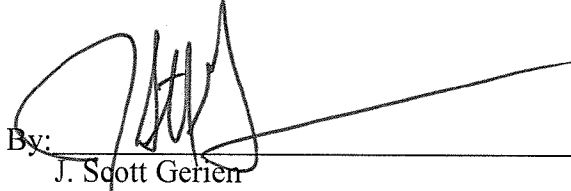
9 Dated: 2/25/10

Respectfully submitted,

DICKENSON, PEATMAN & FOGARTY

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13 By: 
J. Scott Gerien
Megan Healy

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16 Napa, California 94559

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19 Attorneys for Opposer

20 MIGUEL TORRES, S.A.

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PROOF OF SERVICE

I declare that I am over the age of 18 years, employed in the County of Napa, and not a party to the within action; my business address is 809 Coombs Street, Napa, California 94559.

On February 25, 2010, I served the attached **NOTICE OF OPPOSITION** on the person(s) listed below:

TORREVENTO S.R.L.
STRADA PROVINCIALE 234, KM. 10,600
(EX S.S. 170 KM. 28)
I-70033 CORATO (BA) ITALY

by enclosing a true copy in a sealed envelope addressed as shown below and placing the envelope for collection and mailing following our ordinary business practices. I am readily familiar with this business' practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed February 25, 2010, at Napa, California.


JAYMIE KILGORE